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Direct Lenders

14
15 UNITED STATES BANKRUPTCY COURT
16 DISTRICT OF NEVADA

17 —ooOoo—

18 In Re:
19 USA COMMERCIAL MORTGAGE
COMPANY, et al.

Case Nos.:
BK-S-06-10725-LBR
BK-S-06-10726-LBR
BK-S-06-10727-LBR
BK-S-06-10728-LBR
BK-S-06-10729-LBR

20 Debtors.

21
22 JOINTLY ADMINISTERED
Chapter 11

Affects:

- 23 ☒ All Debtors
24 ☐ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
25 ☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
26 ☐ USA Securities, LLC

Hearing Date: N/A
Hearing Time: N/A

**DECLARATION OF KEVIN A.
DARBY, ESQ. IN SUPPORT
OF EX PARTE MOTION FOR
ORDER SHORTENING TIME TO
HEAR APPELLANTS' MOTION FOR
LIMITED STAY PENDING APPEAL**

1 I, KEVIN A. DARBY, being first duly sworn, do depose and say under the penalty of
2 perjury:

3 1. I am a duly-licensed attorney and an associate of the Law Offices of Alan R.
4 Smith and represent the Lenders Protection Group (the "LPG") in the above captioned
5 bankruptcy case.

6 2. I have knowledge of and am competent to testify to the matters stated herein,
7 except to those matters stated upon information and belief, and as to those matters, I believe
8 them to be true.

9 3. On Tuesday, February 20, 2007, at 4:20 p.m., I sent an email to Annette Jarvis,
10 Esq., attorney for Debtors, in which I sought her position on an order shortening time on the
11 LPG's *Motion For Limited Stay Pending Appeal*. I also sent that email to Mr. Leonard
12 Schwartz, Esq. and Ms. Jeanette E. McPherson, Esq.

13 4. As of 5:00 p.m. on February 20, 2007, I had not heard back from Ms. Jarvis, or
14 any other party to the email. Thus, I directed our office staff to go forward and file the
15 relevant pleadings and to indicate on the Attorney Information Sheet that I had not heard back
16 from Ms. Jarvis.

17 5. On Wednesday, February 21, 2007, I received and reviewed an email from Mr.
18 Leonard Schwartz, Esq., which was sent after normal business hours on February 20, 2007,
19 at 5:05 p.m. In the email, Mr. Schwartz indicated "he" would not consent to an order
20 shortening time.

21 6. I have yet to receive a response from Ms. Jarvis to my email of February 20,
22 2007.

23 7. The Attorney Information Sheet filed by the LPG on February 20, 2007, was not
24 misleading or untruthful. At the time the document was prepared, and at the time I instructed
25 our staff to file the document, it was truthful and accurate.

26 8. As I have learned this morning that Mr. Schwartz adamantly opposes an order
27 shortening time, I have prepared, and directed my staff to file, an amended Attorney
28 Information Sheet, which will indicate Mr. Schwartz's disapproval.

1 I hereby swear under penalty of perjury that the assertions of this Declaration are true.

2 DATED: February 21, 2007.

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4 By: /s/ Kevin A. Darby, Esq.
5 KEVIN A. DARBY, ESQ.
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